

Regular Session, 2012

SENATE BILL NO. 464

BY SENATOR CORTEZ

PUBLIC CONTRACTS. Prohibits awards or procurements with individuals convicted of certain felony crimes. (7/1/12)

AN ACT

To enact R.S. 39:2183 and to repeal Chapter 25 of Subtitle III of Title 39 of the Louisiana Revised Statutes of 1950, comprised of R.S. 39:2191 and 2192, relative to procurement; to allow for the prohibition of certain convicted felons from participating in the contract and procurement process; to provide for technical corrections to certain Louisiana Revised Statute provisions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 39:2183 is hereby enacted to read as follows:

~~§2192~~ **§2183**. Right to prohibit awards or procurement with individuals convicted of certain felony crimes

A. In awarding contracts, any public entity is authorized to reject the lowest bid from, or not award the contract to, a business in which any individual with an ownership interest of five percent or more has been convicted of, or has entered a plea of guilty or nolo contendere to any state felony crime or equivalent federal felony crime committed in the solicitation or execution of a contract or bid awarded under the laws governing public contracts under the provisions of Chapter 10 of Title

1 38 of the Louisiana Revised Statutes of 1950, professional, personal, consulting, and
2 social services procurement under the provisions of Chapter 16 of this Title, or the
3 Louisiana Procurement Code under the provisions of Chapter 17 of this Title.

4 B. Nothing in this Section shall impose a duty, responsibility, or requirement
5 on a public entity to perform criminal background checks on contractors, vendors,
6 or subcontractors. It shall be the responsibility of any person, company, or entity
7 making an allegation of prior convictions on the part of any individual with an
8 ownership interest of five percent or more in any bidder to present prima facie
9 evidence to the public entity supporting their claim.

10 C. If evidence is submitted substantiating that any individual with an
11 ownership interest of five percent or more in the lowest bidder has been convicted
12 of, or has entered a plea of guilty or nolo contendere to any state felony crime or
13 equivalent federal felony crime committed in the solicitation or execution of a
14 contract or bid awarded under the laws listed in Subsection A of this Section and the
15 public entity rejects the lowest bid, the company whose bid is rejected shall be
16 responsible to the public entity for the costs of rebidding, the increased costs of
17 awarding to the second low bidder, or forfeiture of the bid bond, whichever is higher.

18 Section 2. Chapter 25 of Subtitle III of Title 39 of the Louisiana Revised Statutes
19 of 1950, comprised of R.S. 39:2191 and 2192, is hereby repealed.

20 Section 3. This Act shall become effective on July 1, 2012.

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Martha S. Hess.

DIGEST

Present law defines "public entity" for purposes of present law.

Present law provides that in awarding contracts, any public entity is authorized to reject the lowest bid from, or not award the contract to, a business in which any individual with an ownership interest of 5% or more has been convicted of, or has entered a plea of guilty or nolo contendere to any state felony crime or equivalent federal felony crime committed in the solicitation or execution of a contract or bid awarded under the laws governing public contracts under the provisions of Chapter 10 of Title 38 of the La. R.S. of 1950, professional, personal, consulting and social services procurement under the provisions of Chapter 16 of Title 39 of the La. R.S. of 1950, or the Louisiana Procurement Code under the provisions of Chapter 17 of Title 39 of the Louisiana Revised Statutes of 1950.

Present law provides that a public entity does not have a duty, responsibility, or requirement to perform criminal background checks on contractors, vendors, or subcontractors. Present law further provides that it shall be the responsibility of any person, company, or entity making an allegation of prior convictions on the part of any individual with an ownership interest of 5% of more in any bidder to present prima facie evidence to the public entity supporting their claim.

Present law provides that if evidence is submitted substantiating that any individual with an ownership interest of 5% of more in the lowest bidder has been convicted of, or has entered a plea of guilty or nolo contendere to any state felony crime or equivalent federal felony crime pursuant to present law and the public entity rejects the lowest bid, the company whose bid is rejected will be responsible to the public entity for the costs of rebidding, the increased costs of awarding to the second low bidder, or forfeiture of the bid bond, whichever is higher.

Proposed law consolidates the statutory provisions on prohibited contracts contained in present law. Proposed law also changes the section number of present law pertaining to the right to prohibit awards or procurement with individuals convicted of certain felony crimes. Proposed law repeals duplicate section of present law.

Effective July 1, 2012.

(Adds R.S. 39:2183; repeals R.S. 39:2191-2192)